

Chapter 329.
Animals Act 1952.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 329.

Animals Act 1952.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Animals Act 1952,

Being an Act relating to trespass by, confinement of, identification of, and the prevention of cruelty to, animals generally, and to provide for the control of dogs.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“brand” means a horse and cattle brand, a sheep brand or a distinctive brand;

“branded stock” means stock that has been branded in accordance with Part IV;

“the Brands Directory” means the Brands Directory published under Section 65;

“cattle” means any animal of the genus *Bos*;

“cattle earmark” means a mark or cut upon the ear of any cattle;

“the Chief Inspector of Brands” means the Chief Inspector of Brands appointed under Section 28;

“court” means a court of summary jurisdiction;

“crop” means to cut a straight cut taking off a portion of the ear of stock;

“cruelty” means the intentional or deliberate infliction on an animal of pain that in—

- (a) its kind or degree; or
- (b) its objects; or
- (c) its circumstances,

is unreasonable, wanton or malicious;

“distinctive brand” means a brand that—

- (a) is set apart by the Registrar of Brands for a specific purpose; or
- (b) the owner may brand on a horse or cattle to denote—
 - (i) the ownership of the horse or cattle by a member of a family or partnership, where a horse and cattle brand is registered jointly in the names of members of a family or partnership; or
 - (ii) the class, age or description of the horse or cattle; or
 - (iii) any other fact which the owner desires to denote;

“earmark” means a cattle earmark or a sheep earmark;

“hide” means the skin taken from any kind of stock, or a portion of such a skin;

“horse” means a horse, mare, gelding, colt, filly, ass, hinny or mule;

“horse and cattle brand” means a brand consisting of the permanent impression by branding on any horse or cattle to denote ownership of the horse or cattle;

“Inspector of Brands” means an Inspector of Brands appointed under Section 30, or an officer of the Police Force;

“official brand” means a brand set apart by the Registrar and used to denote the cancellation of a brand;

“official mark” means a mark set aside by the Registrar and used to denote the cancellation of a brand;

“owner”, in relation to a registered brand or earmark or any stock or run, includes a person who is the authorized representative, agent, manager or overseer of the owner who has the custody or control of the stock;

“person” includes a partnership;

“pliers” means any instrument or contrivance approved by the Registrar or an Inspector for use in earmarking stock;

“poundkeeper” includes the person for the time being in the authorized charge of a pound;

“the Register” means the Register of Brands and Earmarks kept under Section 35;

“registered” means registered under this Act;

“the Registrar” means the Registrar of Brands appointed under Section 29, and includes a Deputy Registrar of Brands appointed under that section;

“the regulations” means any regulations made under this Act;

“residence” in relation to the owner of any stock, means his residence, house, homestead, office or head station;

“saleyard” means a yard, premises or place where stock are—

- (a) sold or offered or exposed for sale; or
- (b) held or kept for the purpose of being sold or offered or exposed for sale; or
- (c) kept or held on sale;

“sheep brand” means—

- (a) a fire brand permanently impressed on the face or horns of a sheep or goat; or
- (b) a paint brand imprinted on the wool or any other part of a sheep or goat,

to denote ownership of the sheep or goat;

“sheep earmark” means a mark or cut on the ear of a sheep or goat to denote ownership of the sheep or goat;

“spay mark” means a circular mark not exceeding 40mm in diameter made or cut wholly within the off or near ear of any cow or heifer to denote that it has been spayed;

“stock” means any horses, cattle or sheep;

“this Act” includes the regulations.

PART II. – ANIMAL TRESPASS.**2. INTERPRETATION OF PART II.**

In this Part, unless the contrary intention appears—

“animal” means any stock, goat or swine, of any age or sex.

3. STRAYING ANIMALS.

The owner of an animal trespassing on any land is guilty of an offence.

Penalty: A fine not exceeding K4.00, and in addition such compensation, not exceeding K40.00, to the person aggrieved as the court that convicts the offender thinks just.

4. CONFINEMENT OF STOCK.

(1) For the purposes of this Part, stock kept on land that, except where it is bounded by a natural or an artificial object that forms an effectual obstacle to the passage of stock, is enclosed by a proper fence in good repair, shall be deemed to be kept confined.

(2) The following constructions are proper fences for the purposes of this Part:—

- (a) a post and rail fence at least 1,050mm high of substantial material, firmly erected—
 - (i) with no greater distance between the rails or between the bottom rail and the ground than 300mm; and
 - (ii) posts not more than 2.75m apart;
- (b) a substantial wire fence at least 1,050mm high having—
 - (i) wires tightly stretched with no greater distance between each of the three lowest wires, or between the bottom wire and the ground, than 180 mm; and
 - (ii) posts not more than 3.5m apart; and
 - (iii) straining posts not more than 90m apart;
- (c) a wall of stone or other substantial material at least 1,200mm high and not less than 600mm wide at the bottom and 230mm wide at the top;
- (d) a substantial paling fence at least 1,050mm high with no greater distance between the palings than 100mm;
- (e) subject to Subsection (3)—
 - (i) a log or sapling fence; or
 - (ii) a ditch; or
 - (iii) a ditch and fence; or

- (iv) a ditch and wall; or
- (v) a ditch and hedge;
- (f) a construction of any other kind declared by the Minister, by notice in the National Gazette, to be a proper fence for the purposes of this Part.

(3) A construction referred to in Subsection (2)(e) is not a proper fence for the purposes of this Part unless it is certified as a proper fence by the Provincial Administrator or by a person appointed by the Provincial Administrator for the purpose.

5. COMPLAINT ABOUT UNCONFINED ANIMALS.

(1) Where a complaint is made that an unconfined animal is a public nuisance, the Provincial Administrator for the province in which the animal is found may summon—

- (a) any owner of or person who has charge of the animal; or
- (b) if there is no owner or person in charge of the animal in the country, any person in the country who apparently has a legal authority over or a legal interest in the animal,

to show cause why an order to keep the animal confined should not be issued.

(2) If after diligent inquiry the Provincial Administrator is unable to find a person in the country who—

- (a) is an owner of or has charge of the animal; or
- (b) has or apparently has a legal authority over or a legal interest in the animal,

the Provincial Administrator may proceed to hear and determine the case—

- (c) without summoning any person; and
- (d) without the presence at the hearing of any person as a defendant or the representative of a defendant.

6. ORDERS TO CONFINE ANIMALS.

(1) If on the hearing of a complaint under Section 5 the Provincial Administrator is of the opinion that an animal referred to in the complaint is, because it is not being kept confined, a public nuisance, he shall make an order in the prescribed form requiring the animal to be kept confined.

(2) The time after which the animal is to be kept confined shall be fixed by the Provincial Administrator having regard to the circumstances of the case.

(3) An order under this section is final.

7. SERVICE OF ORDER.

(1) An order made under Section 6 of this Act shall be in duplicate.

(2) One copy shall be kept by the Provincial Administrator who issues it and the other shall, subject to Subsections (3) and (4), be served on some person in the country who is an owner of or has charge of the animal to which the order relates.

(3) Subject to Subsection (4), if the Provincial Administrator is unable to find in the country a person who owns or has charge of the animal, he shall cause the order to be served on some person in the country who in his opinion has a legal authority over or a legal interest in the animal.

(4) If the Provincial Administrator is unable, after diligent inquiry, to find a person in the country who is the owner or has charge of, or who, in his opinion has a legal authority over or a legal interest in, the animal, the order shall be published in the National Gazette.

(5) Service of the order or publication in lieu of service, in the manner prescribed by this section, is notice of the issue of the order to all persons to whom the order is addressed.

8. EXTENSION OF TIME IN ORDER.

If a Provincial Administrator who makes an order under Section 6 is of opinion that honest efforts are being made to comply with the requirements of the order, he may, by endorsement signed by him on the order, extend the time within which the order is to be obeyed.

9. FORFEITURE OF ANIMALS NOT CONFINED.

(1) When an order under Section 6 has been served or published in accordance with Section 7 and has been disobeyed, the animal to which the order relates is forfeit to the State, and may be immediately seized.

(2) An animal forfeited under Subsection (1) shall be disposed of as the Minister determines.

10. USING ANIMALS TO MAKE OTHER PERSON LIABLE.

A person who, with intent to injure or annoy another person, wilfully employs or disposes of an animal belonging to that other person—

- (a) so as to make that other person liable to a penalty, forfeiture or payment under this Part in respect of the animal; or
- (b) in such a manner that an order may be made under this Part relating to the animal,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding six months.

PART III. – POUNDS.**11. INTERPRETATION OF PART III.**

In this Part, unless the contrary intention appears—
“animal” includes any stock, goat or swine.

12. APPLICATION OF PART III.

The Minister may, by notice in the National Gazette, specify the towns to which this Part applies.

13. POUNDS.

The Minister may, by notice in the National Gazette, appoint places to be pounds.

14. POUNDKEEPERS.

(1) The Minister may, by notice in the National Gazette, appoint a person to be a pound keeper.

(2) If a poundkeeper is absent or, through illness or any other cause, incapable of acting as poundkeeper, a person appointed in writing by him for the purpose may act as poundkeeper during the absence or incapacity of the poundkeeper.

(3) The Minister may, by written notice addressed to a person appointed under Subsection (2), revoke the appointment, and may by the same or another notice appoint a person to act as poundkeeper during the absence or incapacity of the poundkeeper.

15. POUND BOOK.

A poundkeeper shall—

- (a) keep a pound book in the prescribed form; and
- (b) make an entry in the book as soon as possible after the doing of any thing required to be entered.

16. FEES.

(1) Such pound, conduct and sustenance fees as are prescribed are payable to a poundkeeper on behalf of the State.

(2) Conduct fees are payable in respect of the conduct or conveyance of impounded animals from the place of seizure to the pound.

(3) Sustenance fees are payable in respect of the sustenance in the pound of impounded animals.

17. TABLE OF FEES.

(1) On the gate or some other conspicuous part of a pound there shall be erected and maintained a board on which are painted in white letters on a black ground the name of the poundkeeper and a table of the prescribed fees that he is authorized by this Act to receive.

(2) When an animal is impounded, the poundkeeper shall immediately post a written notice on the gate or other conspicuous part of the pound giving the number, particular brands or apparent brands, and marks of the animal, and the notice shall remain posted until the animal has been claimed or disposed of as provided by this Act.

18. IMPOUNDING.

All animals found straying and at large within the limits of a town to which this Part applies are liable to be impounded.

19. IMPOUNDING AT NEAREST POUND.

An impounded animal shall be detained in the nearest accessible pound to the place where it was found straying and at large.

20. IMPOUNDED ANIMALS.

A poundkeeper shall detain in his custody any impounded animal until all lawful fees and charges are paid.

21. RECOVERY OF IMPOUNDED ANIMALS.

(1) The owner of an animal impounded under Section 18, or a person acting on his behalf and with his authority, may recover the animal on payment of the prescribed pound, conduct and sustenance fees.

(2) The right to recover an animal from a pound under Subsection (1) may be barred if application for its recovery is not made within 14 days of the impounding.

22. POSTING OF NOTICE OF IMPOUNDING.

When any cattle are impounded, the poundkeeper shall post a notice in the prescribed form on the Provincial Administrator's Office nearest the pound.

23. SALE BY AUCTION OF IMPOUNDED ANIMALS.

(1) If an impounded animal has not been released from the pound within 14 days after the posting of the notice under Section 22, the animal shall be sold by public auction at the pound on the day named in the notice.

(2) The poundkeeper shall act as auctioneer and the sale shall commence at 10 am.

(3) The poundkeeper shall not in person or by his agent—

- (a) purchase an animal at the sale; or
- (b) have an interest in an animal purchased at a sale.

(4) Not more than—

- (a) one head of cattle, other than sheep, goats or swine; or
- (b) 10 sheep, goats or pigs,

shall be sold in one lot but this subsection does not prevent a cow with her calf or a mare with her foal from being sold in one lot.

24. DESTRUCTION OF UNSOLD ANIMALS.

(1) Where any animal has been offered for sale at a pound and—

- (a) no bid has been made at the sale; and
- (b) the animal is not worth the fees prescribed,

the poundkeeper may—

- (c) cause the animal to be destroyed; and
- (d) dispose of the carcass in such way as he thinks best.

(2) The proceeds of the sale under Subsection (1) of the carcass or any portion of the carcass shall be treated in the same way as the proceeds of the sale of impounded animals.

25. PROCEEDS OF SALE.

(1) The proceeds of the sale of impounded animals sold under Section 23 shall be applied in the following order:—

- (a) in payment of the costs and charges of the sale;
- (b) in payment of all costs incurred by the poundkeeper in feeding and conduct of the animal;
- (c) in payment of all fees and charges payable to the State,

and the balance (if any) is payable to the owner of the animal.

(2) If the balance referred to in Subsection (1) is not claimed by a person entitled within one month after the sale, the poundkeeper shall pay it to the Consolidated Revenue Fund, and all right or claim of a person to it ceases.

26. ALLOWING ANIMALS TO STRAY.

An owner or person having control of any cattle who allows the cattle to stray and be at large within a town to which this Part applies is guilty of an offence.

Penalty: A fine not exceeding K20.00.

PART IV. – STOCK BRANDS.*Division 1.**Preliminary.***27. INTERPRETATION OF PART IV.**

In this Part, unless the contrary intention appears—

“stock” includes goats;

“vendor” includes an auctioneer or other agent of a vendor.

*Division 2.**Administration.***28. CHIEF INSPECTOR OF BRANDS.**

(1) The Minister may, by notice in the National Gazette, appoint an officer to be the Chief Inspector of Brands for the purposes of this Part.

(2) The Chief Inspector of Brands has and may exercise and perform all the powers, functions, privileges and immunities of an Inspector.

29. REGISTRAR AND DEPUTY REGISTRARS OF BRANDS.

(1) The Minister may, by notice in the National Gazette, appoint an officer to be the Registrar of Brands for the purposes of this Part.

(2) The Minister may, by notice in the National Gazette, appoint officers to be Deputy Registrars of Brands for the purposes of this Part.

(3) Where by or under this Part anything is required or permitted to be done by the Registrar of Brands, it may lawfully be done by a Deputy Registrar of Brands.

30. INSPECTORS OF BRANDS.

The Minister may, by notice in the National Gazette, appoint officers to be Inspectors of Brands.

31. POWERS OF INSPECTORS.

(1) For the purposes of this Part, an Inspector may, with or without assistants—

- (a) enter on any part of a run; and
- (b) search for, muster or inspect any stock, hide, brand, branding instrument or pliers on a run; and
- (c) order the owner or person in charge of any stock to muster or produce it for inspection; and

- (d) order the owner or person in charge of any hide, brand, branding instrument or pliers to produce it for inspection; and
- (e) seize and detain any stock in respect of which the owner or person in charge—
 - (i) has committed; or
 - (ii) is suspected of committing or of having committed, an offence against this Part; and
- (f) seize and detain any hide, brand, branding instrument or pliers that—
 - (i) is not or are not authorized by this Part; or
 - (ii) is or are, or is or are suspected to be, possessed or used contrary to this Part; and
- (g) for any of the purposes referred to in Paragraphs (a), (b), (c), (d), (e) and (f), use such force as is necessary.

(2) Any stock, hide, brand, branding instrument or pliers seized under this section and required for the purpose of evidence only may be detained in a safe place for so long as is reasonably necessary for the purpose.

Division 3.

Registration.

32. APPLICATION FOR REGISTRATION.

A person desiring to become the owner of a registered brand or earmark under this Part may forward to the Registrar—

- (a) an application in the prescribed form; and
- (b) the prescribed fee.

33. REGISTRATION.

(1) The Registrar shall consider each application under Section 32 and, if satisfied that it is in conformity with this Part, shall, subject to this section—

- (a) allot to the applicant a horse and cattle brand, cattle earmark, sheep brand, sheep earmark or distinctive brand as the case may be; and
- (b) register the brand or earmark in the name of the applicant.

(2) If, in the opinion of the Registrar a brand or earmark applied for is similar to or easily convertible into a registered brand or earmark of any other person, or for any other reasonable cause, the Registrar shall make, or allow the applicant to make, modifications in the brand or earmark applied for so as to make it dissimilar to or not convertible into the brand or earmark of the other person.

(3) A cattle earmark or distinctive brand shall not be allotted to or registered in the name of a person who is not the owner of a horse and cattle brand.

34. CERTIFICATE OF REGISTRATION.

(1) On the registration of a brand or earmark, the Registrar shall issue to the applicant a certificate, in the prescribed form, of the registration of the brand or earmark.

(2) The certificate of registration of a brand or earmark is *prima facie* evidence—

- (a) of the registration of the brand; and
- (b) that the person named in the certificate is the owner of the brand.

35. REGISTER OF BRANDS AND EARMARKS.

The Registrar shall keep a Register of Brands and Earmarks in which there shall be entered particulars of all brands and earmarks registered under this Part.

36. EFFECT OF REGISTRATION AS OWNER OF BRAND OR EARMARK.

The person whose name appears in the Register as the owner of a registered brand or earmark shall, for the purposes of this Part, be deemed to be the owner of the brand or earmark.

37. TRANSFER OF BRANDS AND EARMARKS.

(1) Subject to this Part, the owner of a registered brand or earmark may transfer the brand or earmark to another person.

(2) The Registrar may refuse on any reasonable ground, to register the transfer of a registered brand or earmark.

38. CANCELLATION OF REGISTRATION.

The Registrar may cancel the registration of a brand or earmark—

- (a) at the request of the owner of the brand; or
- (b) in the event of the lease, sale or transfer of the run in relation to which the brand is registered; or
- (c) in accordance with Section 39; or
- (d) on any other reasonable ground.

39. CANCELLATION FOR NON-USER.

(1) When it appears to the Registrar, on the report of an Inspector or otherwise, that a registered brand or earmark is not in use, the Registrar may cause notice to be given to the owner of the brand or earmark calling on him to show cause why the brand or earmark should not be cancelled.

(2) A notice under Subsection (1) shall be—

(a) served personally or by post addressed to the last-known residence of the owner; and

(b) published in the National Gazette.

(3) The Registrar may cancel the brand or earmark if, within six months after a notice under this section is served or published, whichever first happens, cause is not shown to the satisfaction of the Registrar why the brand or earmark should not be cancelled.

(4) The Registrar may re-allot a brand or earmark that has been cancelled under this section.

40. CANCELLATION OF DEFACED BRAND.

Where any head of stock or a hide bearing a brand or mark that has been blotched, defaced, altered or rendered illegible is branded or marked with an official brand or official mark in accordance with this Part, the brand that has been blotched, defaced, altered, or rendered illegible shall be deemed to be cancelled and the possession or sale of the animal or hide shall not, by reason only of that fact, be deemed to be unlawful.

Division 4.

Brands and Earmarks.

41. HORSE AND CATTLE BRANDS.

(1) A horse and cattle brand shall consist of—

- (a) three letters; or
- (b) two letters and a numeral; or
- (c) one letter and two numerals.

(2) The shape, pattern, the arrangement of the letters and numerals of a horse and cattle brand shall be as determined by the Registrar.

(3) Horse and cattle brands shall be impressed as follows:—

(a) the breeder or person impressing the first brand shall impress his brand on any one of the following positions:—

- (i) left neck;
- (ii) left shoulder;
- (iii) left thigh;
- (iv) left ribs;
- (v) left rump;

(b) every subsequent brand shall be impressed—

- (i) if there is sufficient space—on the same position as the immediately preceding brand, and at a distance of not less than 40mm or more than 60mm from and directly below it; and
- (ii) if there is not sufficient space for the subsequent brand on the position, referred to in Subparagraph (i)—on the position next in the order shown in Paragraph (a), the position specified in Paragraph (a)(i) succeeding the position specified in Paragraph (a)(v);
- (c) the animal shall be deemed to be last branded with the brand that appears to be the last brand impressed according to Paragraphs (a) and (b).

(4) The last horse and cattle brand impressed on an animal is *prima facie* evidence that the owner of that brand is the owner of the animal.

42. SHEEP BRANDS AND EARMARKS.

(1) The shape and pattern of sheep brands and sheep earmarks shall be as determined by the Registrar.

(2) A sheep brand or sheep earmark shall be branded or made as prescribed, but a cut or cuts made on the ear of a sheep must not remove more than one-third of the ear.

(3) A mark must not be made on an ear of a sheep that is already marked with a registered sheep earmark.

(4) A sheep earmark must be made with pliers.

43. DISTINCTIVE BRANDS.

(1) A distinctive brand to be used on stock shall be of such character and shape as the Registrar determines.

(2) A distinctive brand must be branded on horses or cattle only in the position specified in the application for the brand.

44. STUD OR HERD BOOK NUMBERS.

(1) The breeder or person imprinting the first registered brand on any horse or cattle may imprint numerals to denote the age of the horse or cattle—

- (a) directly beneath the registered brand; and
- (b) at a distance not less than 40mm or more than 60mm from the registered brand.

(2) A brand denoting the age of any horse or cattle need not be registered under this Part.

45. POUND BRANDS.

(1) The Registrar shall—

- (a) allot to each public pound a brand to be called a pound brand; and
- (b) enter particulars of each brand so allotted in the Register.

(2) The keeper of a pound shall, on the sale of any horse or cattle impounded in the pound, brand the horse or cattle with the pound brand in the prescribed manner.

(3) The Registrar may—

- (a) cancel a pound brand; and
- (b) allot a new pound brand in place of a cancelled pound brand.

46. OFFICIAL BRANDS.

Where in his opinion it is necessary or desirable to do so, the Registrar may order any stock or hide to be branded or marked in the prescribed manner with an official brand or official mark.

47. DEPARTMENTAL BRANDS.

Notwithstanding anything in this Part to the contrary, the Registrar may set apart and allot to the Department a horse and cattle brand.

48. BRANDING.

(1) A branding iron used for branding horses or cattle shall not be less than 30mm nor more than 65mm long.

(2) The letters and numerals comprised in a horse and cattle brand shall be so imprinted on any horse or cattle branded with the brand that no letter or numeral is imprinted at a greater distance than 25mm from the next contiguous letter or numeral in the brand.

49. CATTLE EARMARKS.

(1) A cattle earmark shall—

- (a) consist of one or more cuts on either or both of the ears of the cattle; and
- (b) be arranged and placed in such positions as are prescribed; and
- (c) be made with pliers,

and the cut or cuts must not remove more than one third of the ear.

(2) Where any head of cattle has been earmarked it must not again be earmarked with a registered earmark.

(3) A mark other than a registered earmark must not be made on either ear of any cattle.

(4) Subsection (3) does not prohibit the making of a spay mark on either ear of a cow or heifer which has been spayed.

Division 5.

Sale, etc., of Stock.

50. PROOF OF OWNERSHIP BY VENDOR.

(1) Before any branded stock is sold, exchanged or given away, the vendor or the person making the exchange or gift, as the case may be, must provide proof of ownership of the stock in the prescribed manner.

Penalty: A fine not exceeding K200.00.

(2) A person must not purchase any branded stock, or accept any branded stock by way of exchange or gift, unless the prescribed proof of ownership of the branded stock is produced to him.

Penalty: A fine not exceeding K100.00.

(3) A person who—

- (a) is the owner of a registered brand; and
- (b) purchases or accepts branded stock under Subsection (2),

and who fails to brand the stock in accordance with this Act within 14 days of acquiring it, is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(4) This section does not affect the operation of the *Sale of Stolen Cattle Prevention Act 1960*.

Division 6.

Offences.

51. OBSTRUCTION.

A person who—

- (a) hinders or impedes, or attempts to hinder or impede, an Inspector in the execution of his duty or the performance of his functions under this Part; or
- (b) refuses or fails to produce for inspection any branding instrument or pliers when required by an Inspector; or
- (c) refuses or fails to assist an Inspector when required by the Inspector to muster any stock for inspection in accordance with this Part,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

52. FALSE STATEMENTS, ETC.

A person who—

- (a) makes in a Register, certificate, half-yearly statement, Brands Directory or other document or record kept, issued or published under this Part; or
- (b) makes in an application, form or document forwarded to the Registrar under this Part,

a statement that to his knowledge is false in a material particular is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months.

53. DESTRUCTION OF REGISTER, ETC.

A person who wilfully and unlawfully destroys, defaces, injures or alters a Register, certificate, Brands Directory or half-yearly statement kept, issued or published under this Part is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months.

54. USE OF BRANDS OR EARMARKS.

Except as provided by this Part, a person must not use, for the purpose of branding or earmarking stock, a brand or earmark of which he is not the registered owner or the person deemed to be the registered owner, unless, in the case of a registered brand or earmark, he *bona fide* believes that the owner or the person deemed to be the owner has consented to its use by him.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

55. COMPULSORY BRANDING OR EARMARKING.

The owner of a registered brand or earmark who fails to brand or earmark all his stock before it reaches the age of 12 months is guilty of an offence.

Penalty: A fine not exceeding K20.00.

56. MANNER OF BRANDING OR EARMARKING.

A person who makes or impresses a brand or earmark on stock otherwise than in accordance with this Part is guilty of an offence.

Penalty: A fine not exceeding K100.00.

57. UNLAWFUL BRANDING OR EARMARKING.

A person who brands or earmarks stock of which he is not the owner is guilty of an offence unless he has, or *bona fide* believes that he has, the consent of the owner.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

58. DEFACING BRANDS OR EARMARKS.

A person who—

- (a) wilfully blotches, defaces, alters or renders illegible a brand or earmark on any stock; or
- (b) except as allowed by Section 40, knowingly sells or offers for sale any stock a brand or earmark on which has been blotched, defaced, altered or rendered illegible,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

59. DEFACING BRANDS ON HIDES.

A person who—

- (a) wilfully blotches, defaces, alters, renders illegible or removes a brand on a hide; or
- (b) except as allowed by Section 40, knowingly sells or offers for sale a hide or brand on which has been blotched, defaced, altered or rendered illegible, or from which a brand has been removed,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding one year.

60. EFFECT OF POSSESSION OF STOCK OR HIDES BEARING DEFACED BRANDS.

Except as allowed by Section 40, the possession or custody of stock or a hide bearing a brand that has been blotched, defaced, altered or made illegible, or a hide from which a brand has been removed, is *prima facie* evidence that the person in whose possession or custody the stock or hide is found, blotched, defaced, altered, made illegible or removed, as the case may be, the brand.

61. POSSESSION OF CERTAIN STOCK AND HIDES.

(1) Except as allowed by Section 40, a person who has in his possession stock or a hide on which a brand has been blotched, defaced, altered or rendered illegible or

a hide from which a brand has been removed is guilty of an offence unless he proves that, at the time when the stock or hide came into his possession, he did not know and could not with reasonable care have ascertained that—

- (a) a brand on the stock or hide had been blotched, defaced, altered or made illegible; or
- (b) a brand had been removed from the hide,

as the case may be.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months.

(2) This section does not apply to possession by or under the authority of an Inspector acting in the performance of his duty.

62. CROPPING.

A person who crops the ear of any head of stock is guilty of an offence.

Penalty: A fine not exceeding K20.00.

63. FORFEITURE, ETC.

(1) Subject to this Part, a District Court may order the forfeiture to the State of any stock, hide, brand, branding instrument or pliers with respect to which an offence against this Part has been committed.

(2) An Inspector who has seized any stock, hide, brand, branding instrument or pliers may make application to a District Court for an order for—

- (a) the forfeiture of; or
- (b) directions as to the disposal of,

the stock, hide, brand, branding instrument or pliers.

Division 7.

Miscellaneous.

64. HALF-YEARLY STATEMENTS.

The Registrar shall, as soon as possible after 31 December and 30 June in each year, publish in the National Gazette a statement containing particulars—

- (a) of all brands registered, cancelled or transferred; and
- (b) of all pound brands allotted or cancelled,

during the preceding six months.

65. BRANDS DIRECTORY.

The Registrar shall—

- (a) as directed by the Minister, prepare and publish a Brands Directory, containing particulars of all brands and earmarks registered, pound brands allotted and official brands and official marks set apart; and
- (b) forward a copy to each Inspector and poundkeeper.

66. EVIDENCE.

A copy under the hand of the Registrar of—

- (a) a certificate of registration or notification of transfer or cancellation of a registered brand or earmark; or
- (b) a certificate as to ownership of a registered brand or earmark,

is *prima facie* evidence of the facts set out in the certificate or notification.

67. REGULATIONS FOR THE PURPOSES OF PART IV.

The regulations may make provision for and in relation to—

- (a) the procedure for the registration of brands and earmarks; and
- (b) matters in relation to which fees are payable and the fees to be paid; and
- (c) the forms required for the purposes of this Part; and
- (d) the imposition of penalties of fines not exceeding K40.00 for offences against the regulations made for the purposes of this Part.

PART V. – DOGS.

Division 1.

Interpretation of Part V.

68. OWNERS OF DOGS.

For the purposes of this Part, a person who—

- (a) keeps or harbours, or has in his care for the time being, a dog, whether at large or in confinement; or
- (b) occupies a house or premises in which a dog is usually kept or permitted to remain; or
- (c) where there are more occupiers than one in a house or premises let in separate flats, apartments or lodgings—occupies a part of the house or premises in which a dog is usually kept or permitted to remain,

shall be deemed to be an owner of the dog.

Division 2.

Control of Dogs.

69. DESTRUCTION OF DANGEROUS DOGS.

(1) If it appears to a court that a dog, whether at large or not, is dangerous and not kept under proper control, the court may order the owner of the dog to destroy it without cruelty by some speedy means.

(2) A person who fails to comply with an order made under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

Default penalty: A fine not exceeding K10.00.

70. ATTACKS BY DOGS.

If a dog, on a road or in a public or unenclosed place, rushes at, attacks, worries or chases a person, stock, goat or swine the property of a person other than the owner of the dog, and the person or animal rushed at, attacked, worried or chased is not a trespasser, the owner of the dog is guilty of an offence.

Penalty: A fine not exceeding K50.00.

71. COMPENSATION FOR DAMAGE BY DOGS.

(1) On complaint made by a person that he has suffered damage occasioned by a dog, a court may order the owner of the dog to pay to the complainant a sum not exceeding K100.00 as compensation for the actual damage suffered by him.

(2) In proceedings under this section, it is not necessary to prove—

- (a) a previous mischievous tendency in the dog; or
- (b) the owner's knowledge of such mischievous tendency; or
- (c) that the damage was due to the negligence of the owner.

72. WILFULLY URGING DOGS TO ATTACK, ETC.

A person who, without lawful excuse (proof of which is on him), sets on or urges a dog to attack or chase another person is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

73. KEEPING OF DOGS IN SPECIFIED AREAS.

(1) The Head of State, acting on advice, may, by notice in the National Gazette, prohibit the keeping of all or any dogs in a specified area—

- (a) generally; or
- (b) by a specified class of persons.

(2) A person who keeps a dog in contravention of the provisions of a notice under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K50.00.

74. FEMALE DOGS ON HEAT.

(1) The Head of State, acting on advice, may, by notice in the National Gazette, direct that this section applies in an area specified in the notice.

(2) The owner of a female dog who allows her to be at large in a street or public place in an area specified in a notice under Subsection (1) whilst she is on heat is guilty of an offence.

Penalty: A fine not exceeding K50.00.

75. PROHIBITED AREAS.

(1) The Head of State, acting on advice, may, by notice in the National Gazette, declare an area to be a prohibited area for dogs.

(2) A person who brings a dog into an area declared under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(3) A dog found in an area declared under Subsection (1) may be seized by a member of the Police Force, a District Officer or a person authorized by a District Officer for the purpose.

(4) If, within 48 hours after the seizure of a dog under Subsection (1), the owner of the dog does not claim the dog and pay the prescribed fee, the dog may be

sold by public auction or destroyed without cruelty by some speedy means without any liability in respect of the sale or destruction.

Division 3.

Registration of Dogs.

76. APPLICATION OF DIVISION 3.

¹Subject to Section 77(3), this Division applies in towns and in other areas specified by the Minister, by notice in the National Gazette.

77. LOCAL GOVERNMENT RULES AS TO DOGS.

²(1) Subject to this section, and notwithstanding any other provision of this Part or of the *Local-level Governments Administration Act 1997*, a Local-level Government may make rules dealing with matters dealt with by this Division, and ancillary matters.

(2) A rule referred to in Subsection (1) is subject to the *Local-level Governments Administration Act 1997*.

(3) Where the Minister is satisfied that a rule or proposed rule made or to be made in accordance with this section adequately provides for some or all of the matters dealt with by this Division, he may, by notice in the National Gazette, declare that some or all of the provisions of this Division do not, to the extent specified in the notice, apply in the Council area or in the part of the Council area to which the rule applies, as the case may be.

78. OWNERSHIP.

(1) For the purposes of this Division, a person shall be deemed not to be the owner of a dog unless he has had the dog in his possession or under his exclusive control for a period of 14 consecutive days.

(2) The burden of proof that a person referred to in Subsection (1) is not the owner of the dog is on the person.

79. REGISTRATION.

(1) The owner of a dog that is of or over the age of six months who fails to register it and keep it registered in accordance with this Division is guilty of an offence.

Penalty: A fine not exceeding K20.00.

Default penalty: A fine not exceeding K2.00.

(2) The owner of a dog may register it under this Division at any time after it is born.

¹ Section 76 amended by No. 25 of 1976, Schedule 5.

² Section 77 amended by No. 25 of 1976, Schedule 5.

(3) A dog may be registered—

- (a) at the Subdistrict Office of the subdistrict in which it is intended to keep the dog; or
- (b) at any other place in the province appointed by the Provincial Administrator for the purpose.

(4) A person registering a dog shall, in addition to the payment of the registration fee, deliver or send to the Registration Officer—

- (a) a description of the dog in the prescribed form; and
- (b) a declaration of the truth of the description under the hand of the owner of the dog or of a person authorized by the owner for the purpose.

(5) The fee for registration shall be as prescribed.

(6) The registration of a dog remains in force from the day on which it is made until the next 30 June.

80. REGISTRATION OFFICERS.

The Registration Officer is—

- (a) the Provincial Administrator of the province in which a dog is kept or intended to be kept; or
- (b) another officer appointed in writing for the purpose by the Provincial Administrator.

81. DUTIES OF REGISTRATION OFFICERS.

A Registration Officer to whom a registration fee is paid shall—

- (a) enter in a book kept by him in the prescribed form for the purpose—
 - (i) a registration number for each dog registered; and
 - (ii) the date of registration; and
 - (iii) the name and address of the owner; and
 - (iv) a description of the dog; and
- (b) deliver or send a receipt in the prescribed form for the registration fee, containing the particulars referred to in Paragraph (a).

82. REGISTRATION DISC.

(1) The Registration Officer shall give to a person registering a dog a disc on which the registration number of the dog is stamped, and the owner of the dog must attach the disc to a collar securely fastened around the dog's neck.

(2) If a disc referred to in Subsection (1) is lost, the owner may, on application to the Registration Officer and on payment of the prescribed fee, receive a new disc,

and the number of the new disc shall be deemed to be the registration number of the dog in respect of which the disc is issued.

83. PROOF OF REGISTRATION.

(1) In proceedings under this Division for the non-registration of a dog, the burden of proof of registration is on the defendant.

(2) For the purposes of proceedings under this Part, the receipt referred to in Section 81 or a certified copy of the receipt is *prima facie* evidence—

- (a) of the registration of the dog in accordance with the particulars specified in the receipt; and
- (b) that the person described in the receipt as the owner of a dog is the owner of the dog.

84. SEIZURE OF REGISTERED DOG FOUND WANDERING AT LARGE.

(1) A registered dog with a collar around its neck found wandering at large may be seized by—

- (a) a member of the Police Force, a District Officer or a person authorized by a District Officer for the purpose; or
- (b) any other person.

(2) A person who seizes a dog by virtue of Subsection (1)(b) shall hand it over to a member of the Police Force, a District Officer or a person authorized by a District Officer under Subsection (1), to be dealt with in accordance with this Part.

(3) Written notice of the seizure of a dog under Subsection (1) shall, within 48 hours of the seizure—

- (a) be given to; or
- (b) be delivered or sent by post to the usual or last-known address of,

a person who is an owner of the dog by the person making the seizure, or where the dog is handed over to a member of the Police Force, a District Officer or a person authorized by a District Officer, by him.

(4) If, within 48 hours after the giving of notice under Subsection (3), or after the time at which it would be delivered in the ordinary course of post, the owner does not reclaim the dog and pay to the Registration Officer the prescribed fee, the dog may be sold by public auction or destroyed without cruelty by some speedy means, without liability in respect of the sale or destruction.

85. SEIZURE OF UNREGISTERED DOG FOUND WANDERING AT LARGE.

(1) A dog found wandering at large without having around its neck a collar to which is attached a disc issued under Section 82 in respect of the dog shall be seized by a member of the Police Force, a District Officer or a person authorized by a

District Officer for the purpose, or any person may seize it and hand it over to a member of the Police Force, a District Officer or a person authorized by a District Officer for the purpose, to be dealt with in accordance with this Part.

(2) If, within 48 hours after the seizure of a dog under Subsection (1), the dog is not claimed and the prescribed fee, together with twice the registration fee in the case of an unregistered dog, is not paid to the Registration Officer, the dog may be sold by public auction or destroyed without cruelty by some speedy means, without liability in respect of the sale or auction.

86. REGISTERED DOG NOT HAVING DISC.

(1) If a registered dog is found in a public place without having around its neck a collar to which is attached a disc duly stamped with its registered number, the owner of the dog is guilty of an offence.

Penalty: A fine not exceeding K20.00.

(2) If an unregistered dog is found wearing a disc that purports to exhibit the registration number of the dog the owner of the dog is guilty of an offence.

Penalty: A fine not exceeding K50.00 in addition to the penalty (if any) for not registering the dog to which he is liable under this Part.

87. FALSE DECLARATION.

A person who—

- (a) knowingly makes a false declaration in relation to the particulars contained in the description of a dog required by Section 79(4); or
- (b) wilfully inserts in or omits from or wilfully causes or permits to be inserted in or omitted from the description any matter or thing contrary to or for the purpose of concealing the truth,

is guilty of an offence.

Penalty: A fine not exceeding K50.00 or imprisonment for a term not exceeding one month.

88. REMOVING COLLAR.

A person not being the owner who, without lawful excuse (proof of which is on him), removes the collar from the neck of a registered dog is guilty of an offence.

Penalty: A fine not exceeding K50.00.

Division 4.

Miscellaneous.

89. PROCEEDS OF SALE.

The proceeds of the sale of a dog under this Part shall be paid into the Consolidated Revenue Fund.

90. REGULATIONS FOR THE PURPOSES OF PART V.

The regulations may prescribe penalties of fines not exceeding K50.00 for offences against the regulations made for the purpose of this Part.

PART VI. – PREVENTION OF CRUELTY TO ANIMALS.**91. INTERPRETATION OF PART VI.**

In this Part, unless the contrary intention appears—

“animal” means any vertebrate member of the animal kingdom, other than a human being;

“authorized officer” means an officer authorized under Section 93.

92. EXEMPTIONS.

(1) Subject to Subsection (2), this Part does not apply to an act done in—

(a) the extermination of vermin; or

(b) the extermination or destruction of an animal under the authority of a law; or

(c) the hunting, snaring, trapping, shooting or capturing of an animal not in a domestic state.

(2) The exemptions contained in Subsection (1) do not apply in a case that involves cruelty.

93. AUTHORIZED OFFICERS.

The Departmental Head may appoint a person to be an authorized officer for the purposes of this Part.

94. CRUEL ACTS.

(1) Subject to Subsections (2), (3) and (4) and without limiting the generality of the expression, the following acts shall, for the purposes of this Part, be deemed to involve cruelty to the animal concerned:—

(a) overriding, overdriving or overworking an animal;

(b) overloading an animal, or driving an animal when overloaded;

(c) riding, driving, employing or conveying an animal that is unfit for such treatment;

(d) illtreating, injuring, tormenting or torturing an animal;

(e) doing in circumstances that amount to cruelty any of the following acts:—

(i) beating, wounding, mutilating or killing an animal;

(ii) causing unnecessary pain to an animal.

(2) Where a dog that is on a public road, street or place rushes at or barks at—

(a) a person; or

(b) a vehicle or an animal in or on which a person is riding, in such a manner as to cause danger or injury to the person, that person or any other person present may then and there kill or attempt to kill the dog without liability to any proceedings for or by reason of the killing or attempted killing.

(3) An act done without unnecessary cruelty by a medical officer or authorized officer specifically—

- (a) for the advancement of medical or veterinary science; or
- (b) to make a medical or veterinary diagnosis; or
- (c) to prepare vaccines for treatment for the prevention of human and animal disease,

shall, for the purposes of this Part, be deemed not to involve cruelty.

95. PROHIBITION OF CRUELTY.

A person who—

- (a) does any act or avoids doing any act in relation to an animal, which act or avoidance involves cruelty to the animal; or
- (b) uses, treats or handles an animal—
 - (i) at any time; or
 - (ii) in any place; or
 - (iii) in any manner; or
 - (iv) to any extent; or
 - (v) for any purpose; or
 - (vi) in any circumstances,
involving cruelty; or
- (c) drives, conveys or carries in or on a vehicle or receptacle or by hand or in any other way an animal in such a position as to subject it to unnecessary pain; or
- (d) kills an animal—
 - (i) in any manner; or
 - (ii) in any position; or
 - (iii) in any circumstances,
involving cruelty; or
- (e) confines or impounds an animal—
 - (i) in such a manner; or
 - (ii) in such a position; or

(iii) in such circumstances,

as to subject it to unnecessary pain or suffering,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

96. BAITING, ETC., OF ANIMALS.

A person who keeps or uses or acts in the management of a place for the public or private fighting, baiting or otherwise maltreating an animal is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

97. CAPTIVE ANIMALS.

A person who has the possession or the custody of an animal that is confined or otherwise unable to provide for itself, and who fails to provide it with proper and sufficient food, drink and shelter whilst it is confined in his possession or custody, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

98. NEGLECT OR ABANDONMENT OF ANIMALS.

A person who has the possession, custody or control of an animal and who—

- (a) keeps it in a grossly dirty or verminous condition; or
- (b) without reasonable cause or excuse, fails to procure or administer veterinary treatment or attention for it in case of disease, injury or delivery of young; or
- (c) without reasonable cause or excuse, abandons it, whether permanently or not, in circumstances likely to cause it unnecessary suffering,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

99. RIGHT TO PROVIDE FOOD FOR CONFINED ANIMALS.

(1) If an animal—

- (a) is at any time impounded or confined in a yard, pen, cage, hutch, pound or similar receptacle; or
- (b) is deprived of its liberty,

and continues impounded, confined or deprived of its liberty without proper and sufficient food and water for more than 24 consecutive hours or, in the case of a ruminant, for more than 18 hours, a person may enter the yard, pen, cage, hutch, pound or similar receptacle where the animal is and supply it with proper and sufficient food and water during so long as it remains so impounded, confined or deprived of its liberty.

(2) A person referred to in Subsection (1) is not liable to an action of trespass or other proceeding by any person for or by reason of an entry made under that subsection.

(3) The reasonable cost of the food and water supplied under Subsection (1) shall be paid by the owner of the animal to the person who has supplied the food and water, and the cost may be recovered as a debt in a District Court.

100. DESTRUCTION OF SUFFERING ANIMALS.

(1) An animal found abandoned, diseased, injured or disabled to such an extent that its existence involves continued suffering, may be killed on the authority of a District Officer, a commissioned officer of the Police Force, a medical practitioner or an authorized officer, whether or not the animal has been the subject-matter of a prosecution.

(2) Notice of the killing of an animal under Subsection (1) must be given to the nearest District Officer.

(3) The cost incurred in the destruction and disposal of the carcass of an animal referred to in Subsection (1) may be recovered by the person destroying or disposing of it from the owner of the animal as a debt in a District Court.

101. ARREST OF OFFENDERS.

A commissioned officer of the Police Force, on his own view or on the complaint and information of any other person, may—

- (a) arrest, without warrant, a person committing or reasonably suspected of having committed an offence against this Part; and
- (b) bring him before a court for the purpose of being dealt with according to law.

102. DETENTION OF ANIMAL OR VEHICLE AS SECURITY.

(1) Where a person being both the owner and the person having charge of a vehicle or animal is taken into custody for cruelty to the animal, the commissioned officer of the Police Force making the arrest may take charge of the vehicle or animal and deposit it in some place of safe custody as security for the payment of—

- (a) any penalty to which the person may become liable; and
- (b) any reasonable expenses that have been or are necessarily incurred for taking charge of and keeping the vehicle or animal.

(2) The court before whom the proceedings are heard may order that, in default of payment of the penalty and expenses referred to in Subsection (1), the vehicle or animal be sold for the purposes of satisfying the penalty and expenses in like manner as if the vehicle or animal had been subject to be and had been distrained for the payment of them.

103. PERMITTING CERTAIN OFFENCES.

A person who knowingly permits an offence against this Part to be committed in relation to an animal or a place in his possession or custody or under his control is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

104. COMPENSATION.

(1) Where a person convicted of an offence under this Part—

(a) is not the owner of the animal concerned; and

(b) by the offence causes damage to an animal or to a person or property,

he shall, in addition to any penalty imposed, make compensation to the owner of the animal or to the person damaged.

(2) The court before whom the person is convicted shall, by the same or a subsequent order, determine and award the amount of compensation recoverable under Subsection (1).

PART VII. – MISCELLANEOUS.

105. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Office of Legislative Counsel, PNG